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10/522,201	02/16/2006	Jean Dolbec	23710	3744
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LAUBSCHER & LAUBSCHER, P.C. 1160 SPA ROAD SUITE 2B ANNAPOLIS, MD 21403				
EXAMINER				
CHANG, TOM Y				
ART UNIT		PAPER NUMBER		
2456				
NOTIFICATION DATE		DELIVERY MODE		
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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# Office Action Summary

**Application No.**

10/522,201

**Applicant(s)**

DOLBEC ET AL.

**Examiner**

TOM Y. CHANG

**Art Unit**

2456

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 January 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-8508)
- Paper No(s)/Mail Date 02/16/2006
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This action is in response to communication received on 02/16/2005. The examiner acknowledges the applicant's claim of priority to provisional application 60/398049 filed on 07/23/2003. The applicant has submitted 19 claims for review all of which are currently pending.

### ***Drawings***

2. The drawings are objected to because some of the figures are blurry and hard to read. The drawings appear to have suffered from some error during their transmission to the office. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by

examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 101***

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 12 -19 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 12 recites an automatic optical link detection, an automatic cabling change detection, and cabling change impact and resolution modules. Such language points to software per se when there is no language in the claim by which the claim elements can be made functional and statutory. A person of ordinary skill in the art would interpret the limitations to mean merely computer executable functions, rendering the claimed apparatus comprising merely executable functions, which is non-statutory. Claims 13-19 are likewise rejected under the same rationale because the claims depend on claim 12.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

Art Unit: 2456

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-6, 12-13, 15-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Doshi et al US 6,130,875 hereafter Doshi.

6. Regarding claims 1 and 12, Doshi teaches a method and system for detecting current fiber connectivity between optical nodes in the network, and storing information regarding the current fiber link connectivity (**Col 35 Lines 4-9**). Doshi teaches detecting any cabling changes (**Col 10 Lines 53- 57**), and determining the impact of the cabling changes on service through the network (**Col 13 Lines 47-57**).
7. Regarding claims 2 and 13, Doshi teaches us the act of determining impact on services to support the step of directing operator resolution of errors caused by the cabling changes(**Col 13 Line 62 - Col 14 Line 7**).
8. Regarding claims 3 and 15 Doshi teaches an element management system (EMS) within a node (**Col 10 Lines 36 -43**).
9. Regarding claims 4 and 16, Doshi teaches the method is implemented within a network management system (NMS) (**Col 10 Lines 36 -43**). The functions provided at the node are within an optical network and are thus within a network management system.
10. Regarding claims 5 and 17, Doshi teaches the method implemented with an operations support system (OSS) (**Col 10 Lines 36 -43**). The node's function of resolving path failures support the operation of the network and thus are part of an operations support system.
11. Regarding claim 6, Doshi teaches the method is implemented as a combination of EMS, NMS and OSS (**Col 34 Lines 13-15**).
12. Regarding claim 18, Doshi teaches the method implemented on the modules is distributed through the network (**Col 9 Lines 37-39**).

***Claim Rejections - 35 USC § 103***

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. Claims 7-11, 14 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Doshi as applied to claim 1 above, and further in view of Henderson et al US 6,058,103.

15. Regarding claims 7 and 14, the teachings of Doshi have already been discussed in reference to claim 1. Doshi does not teach the use of a GUI. Henderson teaches current fiber connectivity (**Col 14 Lines 32- 36**) and any cabling changes (**failures**) are displayed on a graphical user interface (GUI) (**Col 14 Lines 57-67**). It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify Doshi with Henderson. The reason for this modification would be to provide a graphical method for a network engineer to review and manage failures and other changes to a network.

16. Regarding claim 8, the teachings of Doshi have already been discussed in reference to claim 7. Doshi does not teach that the GUI displays a correlation between optical nodes in the network and fiber connectivity. Henderson teaches that the GUI displays a correlation between optical nodes in the network and fiber connectivity (**Col 15 Lines 7-9**). It would have been obvious to a person of ordinary skill in the art at the

time of the invention to modify Doshi with Henderson. The reason for this modification would be to provide a graphical method for a network engineer to review and manage failures and other changes to a network.

17. Regarding claim 9, the teachings of Doshi have already been discussed in reference to claim 7. Doshi does not teach that the GUI displays cross-connection impacted by a cabling change. Henderson teaches that the GUI displays cross-connection impacted by a cabling change (**Col 16 Lines 16-24**). It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify Doshi with Henderson. The reason for this modification would be to provide a graphical method for a network engineer to review and manage failures and other changes to a network.

18. Regarding claim 10, the teachings of Doshi have already been discussed in reference to claim 7. Doshi does not teach that the GUI displays lightpaths impacted by a cabling change. Henderson teaches that the GUI displays lightpaths impacted by a cabling change (**Col 16 Lines 10-26**). It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify Doshi with Henderson. The reason for this modification would be to provide a graphical method for a network engineer to review and manage failures and other changes to a network.

19. Regarding claim 11, the teachings of Doshi have already been discussed in reference to claim 7. Doshi does not teach that any cabling change must be approved by an operator. Henderson teaches that any cabling change must be approved by an operator before initiation of the change (**Col 26 Lines 12-18**). It would have been



obvious to a person of ordinary skill in the art at the time of the invention to modify Doshi with Henderson. The reason for this modification would be to provide a graphical method for a network engineer to review and manage failures and other changes to a network.

20. Regarding claim 19 the teachings of Doshi and Henderson have been discuss in reference to claim 14 above. It is inherent that in order for the function of resolving errors in the network to occur the network nodes must communicate with one another. Some sort of communication protocol for this communication to occur must be present. Specifically Doshi teaches such a link management protocol (LMP) is used to communicate data between modules **(Col 34 Lines 30-35)**.

#### ***Relevant Art Cited By The Examiner***

21. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US 6,418,481 - Reconfigurable matrix switch for managing the physical layer of local area network.

US 6,052,722 - System and method for managing network resources using distributed intelligence and state management.

#### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TOM Y. CHANG whose telephone number is (571)270-5938. The examiner can normally be reached on Monday - Thursday from 9am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bunjob Jaroenchonwanit, can be reached on (571) 272-3913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/T. Y. C./  
Examiner, Art Unit 2456  
12/05/2008

/Kevin Bates/  
Primary Examiner, Art Unit 2456